

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:08CV40-01-MU

WAYNE JERRY LOWERY,

Plaintiff,

v.

BOYD BENNETT, et al.,

Defendants.

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**ORDER**

**THIS MATTER** is before the Court for an initial review of Plaintiff's Complaint pursuant to 42 U.S.C. § 1983, filed February 13, 2008..

Venue in a civil action based upon a federal question is proper in: 1) a judicial district where any defendant resides, if all defendants reside in the same State, 2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or 3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought. 28 U.S.C. § 1391(b).

It appears from the face of the Complaint that both of the Defendants reside in the Eastern District of North Carolina. In addition, the actions which form the basis of the Complaint – the utilization review board's denial of Plaintiff's request for surgery and the application of Boyd Bennett's alleged policies which were used to deny Plaintiff's request -- did not occur in the Western District of North Carolina but in Raleigh, North Carolina which is located in the Eastern

District of North Carolina.

Because the face of the Complaint does not support a finding that any of the Defendants reside in the Western District of North Carolina and because the events that form the basis of the Complaint occurred in the Eastern District of North Carolina, the Court will transfer this case to the Eastern District of North Carolina.

**THEREFORE, IT IS HEREBY ORDERED** that Plaintiff's Complaint and all documents contained in his case file be **TRANSFERRED** to the United States District Court for the Eastern District of North Carolina.

Signed: February 19, 2008

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

